

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY

October 27, 2004

A regular meeting of the New Hampshire Board of Pharmacy was held on **October 27, 2004** at the Board office, 57 Regional Drive, Concord, New Hampshire. The meeting was **called to order at 9:08 a.m.** with President Margaret E. Hayes presiding.

I. ROLL CALL - AGENDA REVIEW - ANNOUNCEMENTS

PRESENT

Margaret E. Hayes, President
Kristina Genovese, Vice-President
George L. Bowersox, Treasurer
Vahrij Manoukian, Member
Ronald L. Petrin, Member

ALSO PRESENT

Paul G. Boisseau,
Executive Secretary
Peter A. Grasso,
Chief Compliance Investigator

ABSENT

Sandra B. Keans, Secretary

ANNOUNCEMENT

CCI Peter Grasso will be attending The National Association of Drug Diversion Investigators (NADDI) annual educational training conference in Nashville, TN November 15-19, 2004.

II. REVIEW OF ACTION ITEMS

A. **Medication Assistance Programs**

Pursuant to Commissioner Bowersox's preliminary report at the March 17, 2004 Board meeting (*see Minutes*), a comprehensive report of findings and proposed resolution (action guidelines) is still in process. The Board is currently reviewing Ohio's Drug Repository Program which allows for the donation of previously dispensed prescription drugs to locations that would use them for treating patients who were unable to pay. Staff is also in the process of contacting other state boards of pharmacy for input. **Survey will be finalized and an executive summary prepared for distribution to the Board for review on November 17, 2004.**

B. Automated Dispensing Machines

Following several months of data gathering and much discussion relative to the use of automated dispensing machines and the “loading” of cassettes and/or Baker-type cells, the Board, **on vote (Bowersox/Petrin) and passage**, established the following policy/guideline which will be distributed to all NH pharmacies.

Automated Dispensing Machines Policy

1. “Return to stock” items are not to be added to the cassettes (cells), unless it can be ascertained that they are of the same lot number;
2. Cassettes (cells) are not to be refilled unless they are empty;
3. Cassettes (cells) should never contain mixed lots;
4. All cassettes (cells) must be labeled with the following information:
 - a. Name and strength of drug;
 - b. NDC number of the drug;
 - c. Lot number and expiration date of the drug;
 - d. Name or initials of the person (technician) filling the cell;
 - e. Initials of the pharmacists verifying the filling.

III. REVIEW / ADOPTION OF MINUTES

Minutes of the **September 15, 2004 regular meeting** of the Board were accepted as amended. **(Bowersox/Petrin). Voted (unanimous).**

IV. LICENSING

A. Pharmacy Technician

Voluntary Surrender

1. **BRISSON, Tabitha A.**
Manchester, NH
Registration Number: PT2002

Motion (Genovese/Manoukian) to accept the voluntary surrender of Ms. Brisson’s NH pharmacy technician registration. Voted (unanimous).

2. **GAETA, Nicole**
Bradford, MA
Registration Number: PT1584. **Voted (unanimous).**

Motion (Manoukian /Bowersox) to accept the voluntary surrender of Ms. Gaeta's NH pharmacy technician registration. Voted (unanimous).

B. Pharmacy

New

1. NEW HAMPSHIRE VETERANS HOME

139 Winter Street
Tilton, NH 03276

Pharmacist-In-Charge: **Melanie C. Fifield, R.Ph.**

NH License No. 2527

Corporate Office/Supervisor: **Jamie L. Dall**

Business Administrator

Application complete.

Motion (Genovese/Bowersox) granting a temporary permit to New Hampshire Veteran's Home located at 139 Winter Street, Tilton, NH based upon successful completion of the primary inspection, and issuance of the original permit upon successful completion of the secondary inspection pursuant to Ph 305.02. Voted (unanimous).

V. COMPLIANCE UNIT

A. Activity Report

- September 2004

Motion (Genovese/Bowersox) to accept the report as submitted. Voted (unanimous).

VI. NEW BUSINESS

A. Interpretation of 21 CFR 1306.13 – Partial Filling

The Board reviewed a request for opinion submitted by the Office of Medicaid Business and Policy relative to the "partial filling" of controlled substances in Schedule II according to 21 CFR 1306.13(a) and its application to NH Title XIX recipients (NH Medicaid and Healthy Kids – Gold Program) whereas prior authorization is required from the Medicaid office before such prescriptions can be filled.

The Board is of the opinion that it cannot “waive” federal (DEA) regulations. Whereas CFR 1306.13(a) explicitly limits the permissibility of “partial filling”, of controlled substances listed in Schedule II, only if the pharmacist is unable to supply the full quantity called for in the written or emergency oral prescription, the Board is unable to legally interpret the regulation in any other way. It is suggested that the NH Bureau of Medicaid Policy seek a written opinion directly from DEA.

B. Emergency Contraception Dispensing Issues

The Board reviewed a communication from the National Women’s Law Center requesting the Board’s opinion/position clarifying the conditions under which a (NH) pharmacist can refuse to fill a valid prescription. More specifically, the Center seeks a position statement relative to a pharmacist’s (regulatory) authority, or lack thereof, to refuse to dispense Emergency Contraception (EC) medication (as well as other forms of contraception) based solely on personal beliefs.

On vote (Manoukian/Bowersox), a response to the National Women’s Law Center was tabled until the Board is able to obtain, from the Attorney General’s Office, a legal reading of RSA 318; RSA 318-B; and the Administrative Rules of the Board in order to determine if pharmacists licensed and practicing in NH have the authority to refuse to fill a legally issued prescription for any reason, including moral and religious grounds. Voted (unanimous).

C. Prescription Monitoring Program

- Peter A. Grasso, Chief Compliance Investigator (BOP)
- David Strang, MD (ER Physician)
- James Pilliod, MD (State Legislator)
- Thomas Andrew, MD (NH, Chief Medical Examiner)
- Mary C. Kaysen (Purdue Pharma)
- Philip Bradley (NH AG’s Office)

Members (listed above) of the Prescription Monitoring Program (PMP) – a proposed program for the electronic monitoring of controlled substance prescriptions, met with the members of the Board to present an overview of proposed legislation that would launch this program in New Hampshire.

Following much discussion, and although the Board endorsed the concept of the program, the matter was tabled pending additional information and formative planning.

VII. ADJOURNED 12:50 P.M.

Respectfully submitted,

Paul G. Boisseau, R.Ph.
Executive Secretary
FOR THE BOARD